

**ADDENDUM TO SUMMARY REPORT
PURSUANT TO
SECTION 33433
OF THE
CALIFORNIA HEALTH AND SAFETY CODE
ON A
DISPOSITION AND AGREEMENT
BY AND BETWEEN THE
REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE
AND
FOURTH QUARTER PROPERTIES XLVIII, LLC**

Modifications of the proposed Disposition and Development and Owner Participation Agreement (Agreement or “DDOPA”) between the Redevelopment Agency of the City of Sunnyvale (Agency) and Fourth Quarter Properties XLVIII, LLC (Developer) are the basis for the following Addendum modifications to the Summary Report:

1. The following language is deleted from page 7 of the Summary Report. “However, if the retail and office components of the Project are sold or transferred, the cumulative amount limit will be reduced to \$3.8 million and the Developer will receive no share of the excess tax increment available over this new limit. Furthermore, if a portion of the retail and office components of the Project is sold or transferred, the cumulative amount limit will be reduced proportionately to between \$4.0 million and \$3.8 million and the Developer’s share of the excess tax increment available over this new limit will also be reduced in the same manner.”
2. The estimated present value of the tax increment under the set of assumptions and caveats noted in the Report is modified to \$39.5 million in this Addendum.
3. Agency will transfer to the developer 3.38 acres of Agency owned land (Agency Conveyance Land) in exchange for 3.62 acres, which the developer will transfer to the Agency (Developer Conveyance Land). For the purpose of the Section 33433 Report, this exchange is treated as an approximately equal amount of land even though the Agency will receive a slightly larger parcel than it will make available to the Developer. This modification affects language on pages 1 and 9 of the Summary Report. The Agency will own 12.08 acres after the land exchange.

**SUMMARY REPORT PURSUANT TO
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DISPOSITION AND AGREEMENT
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FOURTH QUARTER PROPERTIES XLVIII, LLC**

The following Summary Report has been prepared pursuant to Section 33433 of the California Health and Safety Code. The reports sets forth certain details of the proposed Disposition and Development and Owner Participation Agreement (Agreement or “DDOPA”) between the Redevelopment Agency of the City of Sunnyvale (Agency) and Fourth Quarter Properties XLVIII, LLC (Developer). The purpose of the Agreement is to effectuate the Sunnyvale Downtown Specific Plan (Specific Plan) and the Sunnyvale Downtown Redevelopment Plan (Redevelopment Plan).

The proposed development is on Block 18 (Project Site), which is defined as the area bounded by Mathilda Avenue on the west, Washington Avenue on the north, Sunnyvale Avenue on the east and Iowa Avenue on the south, in Downtown Sunnyvale. The Agreement requires the Agency to do the following:

1. Trade approximately 4.46 acres of Agency-owned land (Agency Conveyance Land) on the Project Site for an approximately equal amount of land owned by the Developer (Developer Conveyance Land) on the same block; and
2. Contribute \$800,000 to the Developer who will demolish the Mathilda Structures and the adjoining parking structure identified in the DDOPA, which have been determined to be structurally unsafe by the City.

In return, the Developer is required to construct a mixed use project of up to 670,000 square feet of retail use (excluding the existing buildings on the Macy’s and Target Parcel), 275,000 square feet of commercial office, 292 residential units, 600 private surface and structured parking spaces, 3,943 public structured spaces (of which at least 920 will be underground), and public streets and related improvements, including street parking for 215 cars on the Project Site (The Project).

The following Summary Report is based upon information contained within the Agreement, and is organized into the following seven sections:

- I. Salient Points of the Agreement:** This section summarizes the major responsibilities imposed on the Developer and the Agency by the Agreement.
- II. Cost of the Agreement to the Agency:** This section details the total cost to the Agency associated with implementing the Agreement.
- III. Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest use permitted under the Agency Site's existing zoning and the requirements imposed by the Sunnyvale Downtown Specific Plan and the Sunnyvale Redevelopment Plan for the Redevelopment Project Area.
- IV. Estimated Reuse Value of the Interests to be Conveyed:** Where sales or leases are proposed at a price that is less than the fair market value determined at the highest and best use, this section summarizes the valuation estimate of the site to be sold or leased based on the required scope of development, and the other conditions and covenants required by the Agreement.
- V. Consideration Received and Comparison with the Established Value:** Where sales or leases are proposed, this section describes the compensation to be received by the Agency, and explains any difference between the compensation to be received and the established value of the Agency Site.
- VI. Blight Elimination:** This section describes the existing blighting conditions on the Agency Site, and explains how the Agreement will assist in alleviating the blighting influence.
- VII. Conformance with the AB1290 Implementation Plan:** This section describes how the Agreement achieves goals identified in the Agency's adopted AB1290 Implementation Plan.
- VIII. This report and the Agreement are to be made available for public inspection prior to the approval of the Agreement.**

I. SALIENT POINTS OF THE AGREEMENT

A. Project Description

The "Scope of Development" defined in the Agreement consists of the demolition of the existing improvements and replacement of those improvements with a new mixed-use development. The

Developer may initially elect to undertake to develop and construct less than the entire Project. If Developer so elects, then Developer must initially develop and construct the Minimum Project pursuant to the DDOPA. The Minimum Project consists of at least 475,000 sq.ft. of new buildings for retail use, 200 residential units, the exterior building shell for the office development that is located above retail buildings on Mathilda, parking and other infrastructure necessary for the buildings and uses in the Minimum Project (as dictated by the City Approvals), and the Public Improvements. The Minimum Project need not include any improvements on the Restaurant Parcel. At maximum build out, the Project must not consist of more than the following:

1. Private Improvements:

- Approximately 670,000 square feet of buildings for retail use, but excluding the existing buildings on the Macy's Parcel and Target Parcel.
- Approximately 275,000 square feet of buildings for commercial office use.
- Approximately 292 residential units.
- Private surface and structured parking for approximately 600 cars, of which approximately 520 spaces will be underground.
- Other site improvements including landscaping, walkways, loading areas and driveways.

2. Public Improvements:

- New public structured parking for approximately 3,943 cars, of which at least 920 will be underground (excluding the existing Penney's Structure).
- Public streets and related improvements, including street parking for approximately 215 cars.

B. Developer Responsibilities

The Agreement requires the Developer to accept the following responsibilities:

1. The Developer will demolish the Mall, the former J.C. Penney building, and the Mathilda Structures and the adjoining parking structure (Macy's and Target will remain on their parcels).
2. The Developer will convey the Developer Conveyance Parcels to the Agency in accordance with the conditions set forth in the DDOPA.

3. The Developer will build, maintain, repair and replace all public streets on Block 18. The Developer will also construct all sidewalks within the block and along the adjacent streets which bound the block, as consistent with Downtown streetscape standards.
4. Upon approval of the City Council of a Special Development Permit, the Developer will build, lease and operate a mixed-use, open-air development consisting of approximately 1.0 million sq. ft. of retail (including the existing Macy's and Target stores), 275,000 sq. ft. of office, and approximately 3,943 public parking spaces (of which at least 920 will be underground); and will enter into agreement with another developer or developers to construct 292 for-sale housing units.
5. The Developer will own the Private Improvements Parcels as defined in the DDOPA and any improvements on these Parcels.
6. The Developer will construct, maintain, repair and replace the 0.8-acre Redwood Square, and make it available at no cost to the City for public events up to 15 times per year.
7. The Developer will operate the existing parking structure improvements on the Penney's Structure Parcel pursuant to the Penney's Structure Agreement.
8. The Developer will cooperate with the City and Agency and use good faith and diligence to issue and market Mello-Roos Bonds for the purchase of the new Public Parking Structures (other than the existing Penney's Structure) by the City and the Developer will pay debt service on the bonds through a special tax.
9. The Developer will build, maintain, repair and replace all parking structures on the Public Parking Parcels.
10. Upon payment from the City for the purchase of the new Public Parking Structures (other than the existing Penney's Structure) at the Public Parking Purchase Price specified in the DDOPA, the Developer will convey the Public Parking Structures to the City.
11. The Developer will enter into a Public Parking Maintenance Agreement with the City and Agency whereby the Developer will be responsible for the operation and maintenance of the Public Parking Structures and Public Parking Parcels.
12. The Developer must pay prevailing wages to all the contractors and subcontractors engaged to construct the Project.
13. The Developer will establish a private security force to provide a high level of security for the project.
14. The Developer will be responsible for the operation and maintenance of the public street improvements pursuant to the Public Street Maintenance Agreement.

C. Agency Responsibilities

The Agreement imposes the following responsibilities on the Agency:

1. The Agency shall convey the Agency Conveyance Parcels to the Developer in consideration for Developer's performance as set forth in the DDOPA.
2. The Agency will pay the developer for demolishing the Agency's portion of the Mathilda Structures and the adjoining parking structure in the amount of \$800,000 (which is 2/3 of the \$1.2 million demolition costs estimated by the Department of Public Works, as the Agency owns 2/3 of the structure and the Mall owns the remaining 1/3).
3. The Agency will own the Penney's Structure Parcel and the existing parking structure improvements, which the Developer will operate pursuant to the Penney's Structure Agreement.
4. The Agency will own the Public Parking Parcels and the improvements on these parcels once the new Public Parking Structures are completed and are purchased from the Developer.
5. Upon Developer completion of the new Public Parking Structures, the Agency will work in good faith and diligence with the City and Developer to issue and market Mello-Roos Bonds for City purchase of the new Public Parking Structures (other than the existing Penney's Structure) and the Developer will pay debt service on the bonds through a special tax.
6. After the City has purchased the completed new Public Parking Structures from the Developer, the Agency and the City will enter into a Public Parking City Lease agreement, whereby the Agency will accept conveyance from the City of the new Public Parking Structures and the Agency will lease the Public Parking Parcels to the City.
7. The Agency will lease the Public Parking Parcels (other than the existing Penney's Structure) to the City for an Annual Rent that is equal to the Annual Payment to be made to the Developer, pursuant to the DDOPA and Public Parking City Lease.
8. Beginning with the first fiscal year after issuance of the Certificate of Completion, the Developer will receive an Annual Payment in consideration for the Developer's construction and operation of the Public Improvements, in accordance with the DDOPA. The Annual Payment will initially come from the City (by way of lease payments under the Public Parking City Lease) and will be made from revenues the City receives from the Agency for repayment of past City loans to the Agency. Once those loans are repaid, the Annual Payment will be made directly by the Agency with tax increment funds. No City general funds will be used to make the Annual Payment.

9. Upon entering into the Public Parking City Lease, the Agency will assign its rights to receive the City's lease payments to the Developer.
10. The Agency will also enter into a Public Parking Maintenance Agreement with the Developer and the City for Developer operation and maintenance of the new Public Parking Structures and Public Parking Parcels.
11. The Agency will also enter into a Public Street Maintenance Agreement with the Developer for operation and maintenance of the public street improvements.

D. City Responsibilities

The City will also have responsibilities pursuant to this Agreement:

1. Upon Developer completion of the new Public Parking Structures, the City will work in good faith and diligence with the Agency and Developer to issue and market Mello-Roos Bonds for City purchase of the new Public Parking Structures (other than the existing Penney's Structure) and the Developer will pay debt service on the bonds through a special tax.
2. Assuming that a sufficient amount of Mello-Roos Bonds are issued and upon the City's receipt of the bond proceeds, the City will purchase the new completed Public Parking Structures (excluding the existing Penney's Structure) from the Developer.
3. The City will enter into a Public Parking City Lease agreement with the Agency, whereby the City will convey the new Public Parking Structures to the Agency and lease the Public Parking Parcels from the Agency.
4. The City will also enter into a Public Parking Maintenance Agreement with the Developer and the Agency for Developer operation and maintenance of the new Public Parking Structures and Public Parking Parcels (other than the existing Penney's Structure Parcel).

II. COST OF THE AGREEMENT TO THE AGENCY

The costs incurred by the Agency to implement the Agreement are as follows:

a. Cost of Agency Conveyance Parcels

A portion of the Agency Conveyance Parcels were acquired more than 25 years ago when the Mall was originally developed. The records for that acquisition do not identify the acquisition cost for those parcels. The portion of the Agency Conveyance Parcels fronting on Sunnyvale Avenue were acquired from the current Mall owners in 2000 for \$27 per square foot.

b. Demolition of the Mathilda Structures and the Adjoining Parking Structure

Regardless of whether a proposal exists for the site, the Mathilda Structures and adjoining parking structure have been condemned by the City for safety violations and thus will need to be removed. The total costs for the demolition of these structures are estimated to be approximately \$1,200,000, of which the Agency and the Developer have agreed to share the costs of the demolition in rough proportion to the ownership of the parking structures: \$800,000 (or 2/3) would be the Agency's share and \$400,000 (1/3) would be the Developer's share.

c. Annual Payments to Developer for Construction and Maintenance of Public Improvements

In consideration for the Developer replacing the Agency's Mathilda Avenue parking deck, for placing a substantial amount of the new parking underground, and for constructing, repairing and replacing public streets and other public amenities, the Developer will receive annual payments equal to all of the new project-generated property tax which flows to the Agency ("project tax increment") for the life of the redevelopment project less amounts the Agency is required by State legislation to set aside for specific purposes such as affordable housing or pay to other agencies or to ERAF.

To protect against an unanticipated windfall to the developer, the payments will be limited to a cumulative tax increment of \$4.0 million/year, plus an amount equal to 50% of any increment available in excess of this limit. However, if the retail and office components of the Project are sold or transferred, the cumulative amount limit will be reduced to \$3.8 million and the Developer will receive no share of the excess tax increment available over this new limit. Furthermore, if a portion of the retail and office components of the Project is sold or transferred, the cumulative amount limit will be reduced proportionately to between \$4.0 million and \$3.8 million and the Developer's share of the excess tax increment available over this new limit will also be reduced in the same manner. Given that any projections of future sale or transfer of the Project's retail and/or office portion are highly speculative at this time, i.e., in regards to the timing, market conditions, values, etc., the estimated present value of the tax increment potentially available to the Developer assumes no future sale or transfer of privately-owned properties. The estimated present value of this tax increment under this set of assumptions is approximately \$38.0 million.

In return for this contribution, the Agency receives new public parking structures with parking for approximately 3,943 cars at an estimated cost in excess of \$50 million, including no fewer than 900 of underground spaces. Additionally, the Agency is relieved of a potential \$10.0 million obligation to replace the Mathilda parking structures. Also, the developer will construct streets and sidewalks, which, if built by the City, have been estimated at \$11.0 million. These public improvements are needed to implement the goals of the Specific Plan as referenced above.

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

Section 33433 of the California Health and Safety Code requires the Agency to identify the value of the interests being conveyed at the highest use allowed by the Agency Site's zoning and the requirements imposed by the Redevelopment Plan. The valuation must be based on the assumption that near-term development is required, but the valuation does not take into consideration any extraordinary use, quality and/or income restrictions are being imposed on the development by the Agency.

The City of Sunnyvale's Downtown Specific Plan identifies the Commercial Core District as consisting of blocks 1, 1a, 2, 3, 13, 18, and 20, generally defined by Mathilda Avenue, Sunnyvale Avenue, Iowa Avenue and Evelyn Avenue. This district has two main goals: to link the different blocks together into a cohesive downtown core and to create a lively street life on all primary streets. Key points for this Core Area include the development of a mix of ground floor retail, restaurant and entertainment uses and residential uses to increase street activity during day and night and to create a pleasant pedestrian experience in the core of downtown. In addition, to promote street connections throughout the area, the Specific Plan also envisions the "restoration of as much of the original street grid as possible" in the downtown.

The Specific Plan, with stipulated entitlements for Block 18 and street improvements for the downtown, was approved and adopted by the City on October 14, 2003. The stipulated entitlements for Block 18, on which the Town Center is located, consist of approximately 1.0 million sq.ft. of retail/restaurant/ entertainment, 202,000 sq.ft. of office and 200 units of high density residential uses. These entitlements were subsequently amended by the City and increased to 282,000 sq.ft. of office, of which the Developer will utilize 275,000 sq.ft., and 292 units of high density residential for Block 18. Given that these entitlements are not parcel-specific; i.e., they apply to the entire Block 18, it is fair to assume that each square foot of land has approximately equal value. The Redevelopment Plan incorporates the Specific Plan.

The Agency currently owns approximately 11.84 acres of Block 18, most of which consists of the land under the portions of the existing closed parking structures fronting on Washington Avenue and Iowa Avenue, the land under the existing parking structure at Sunnyvale and Iowa Avenues and the surface parking area adjacent to Sunnyvale Avenue. American Mall Properties and Lehman own approximately 19.84 acres of Block 18, all of which will be sold to the Developer. Under the terms of the DDOPA, the Agency will trade with the Developer a portion of the property the Agency currently owns in Block 18 with a portion that the Developer will own after its acquisition from American Mall Properties and Lehman. Following the trade, the Agency will own approximately 11.9 acres of Block 18. After the trade, most of the land the Agency owns will also be under parking structures. It will still own

the land under the existing parking structure at Sunnyvale and Iowa Avenues, it will own the land under two new structures to be constructed generally in the same location as the closed structures that the Agency currently owns, and it will own the land under a third structure to be constructed generally in the location of the surface parking lot that the Agency currently owns adjacent to Sunnyvale Avenue. In addition, the Agency will own land where the reestablished street grid will be located. This consists of the street right-of-way for McKinley, Taaffe and Murphy Avenues. The Agency already owns a portion of the McKinley Avenue right-of-way.

Given that the entitlements for Block 18 are not parcel-specific; i.e., they apply to the whole block and the proposed land swap is being made to accomplish a plan and program consistent with the entitlements, it is fair to assume that each square foot has approximately equal value. The proposed land trade will cause both the Agency and the Developer to end up with approximately the same square footage as each had before the trade. Therefore, an even trade in square footage is approximately an even trade in land value. In addition, there does not appear to be any qualitative difference between the land the Agency is conveying to the Developer and the land that the Agency will receive in return. Most of the land the Agency currently owns is in the footprints of the public parking garages on Block 18. That will remain the case after the land trade, and the location of the parking structures will be similar to the current locations.

As noted above, the Developer will be purchasing the 19.84 acres of land on Block 18 from American Mall Properties and Lehman at market value and trading approximately 4.46 acres of it with the Agency. The Agency, in turn, will convey approximately 4.46 acres that it owns on Block 18 to the Developer. The result of the land trade is that both the Agency and the Developer would end up with approximately the same square footage as each had before the trade. Based on the foregoing analysis, it is our opinion that the value of the Agency Conveyance Parcels being traded is estimated to be equivalent to the value of the Developer Conveyance Parcels, which value is the same as the fair market value for the highest and best use of those properties permitted under the Redevelopment Plan and the Downtown Specific Plan.

IV. ESTIMATED REUSE VALUE OF THE INTERESTS TO BE CONVEYED

In this case, the parcels the Agency will convey and the parcels that the Agency will receive from the Developer in return are, as explained above, being use for the highest and best use permitted under the Redevelopment Plan and the Downtown Specific Plan. The value of the parcels is therefore based on the fair market value for the highest and best use permitted under the Redevelopment Plan. Consequently, no reuse value based on additional covenants and conditions required by the Agreement is necessary.

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED VALUE

As described above, the consideration that the Agency will receive is approximately an equal square footage amount of Developer land, which value is estimated to be equivalent to the fair market value of the Agency land.

VI. BLIGHT ELIMINATION

The Sunnyvale Central Core Redevelopment Project Redevelopment Plan was adopted by the Redevelopment Agency in 1975. As described in this Plan, the Central Core Redevelopment Project Area was impacted by significant physical blight, including poor site and building conditions and parcels of irregular shape and form. "Also, economic blighting conditions such as impaired investments and the underutilization of other parcels continue to inhibit the ability of this area to survive without continuing assistance from the Redevelopment Agency. The economic decline is evident in the underutilization of real estate, the presence of marginal businesses, and the decline in property values. The physical decline is evident in the absence of modern real improvements to storefronts and the absence of adequate parking facilities."

These conditions still exist today in the Town Center, aggravated by the continued physical decline of the shopping center, the departure/closure of two major department stores from the center, the declared bankruptcy and closure of the Mall, and the condemnation of the public parking structures. The proposed new development will foster a revitalization of the Town Center by the construction of approximately 1.0 million sq.ft. of new retail/restaurant/entertainment spaces, 275,000 sq.ft. of new office and 292 new residential units. In addition, it will provide an estimated 3,943 new public parking spaces, of which no fewer than 920 would be underground, and significant street and sidewalk improvements. These developments will attract more people to the Downtown, add value to the tax rolls, encourage further development, reinvigorate nearby commercial uses, generate demand for supportive uses, and increase property values.

Thus, the proposed Project satisfies the blight elimination criteria imposed by Section 33433.

VII. CONFORMANCE WITH THE AB1290 IMPLEMENTATION PLAN

The proposed project and the DDOPA are consistent with the Implementation Plan for the Sunnyvale Core Redevelopment Project. The goals set out in that plan include "invest[ing] in downtown and encourage[ing] and nurture[ing] private investment in private developments," "establish[ing] a 24 hour vibrant downtown with Class A office buildings around a vibrant retail district with easy parking and easy access from a variety of housing types," "continu[ing] public/private partnerships in the development of office, retail, housing, hotel and open space facilities," "creat[ing] a unique shopping, dining, entertainment experience in downtown,

combining new restaurants with small shops, major retail stores, and theatre with easy, available parking and strong pedestrian connections to other parts of the Downtown," "complet[ing] priority streetscape projects to facilitate an attractive pedestrian environment and to promote development on adjacent parcels," "implement[ing] overall parking strategy that optimizes parking based on office, retail and entertainment peaks," "replac[ing] public parking as required," and "encourag[ing] mixed housing consisting of market rate and affordable housing in appropriate locations in or near the downtown." The proposed project will promote all of these objectives set forth in the Implementation Plan.